



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Design, Construction and Land Use**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2300367  
**Applicant Name:** Gary M. Abrahams for T-Mobile  
**Address of Proposal:** 1006 Turner Way East

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for construction of a minor communication utility (T-Mobile) consisting of two (2) panel antennas (2 – Sector) on the roof of an existing administrative office building. Project includes equipment cabinet to be located in a basement.

The following approvals are required:

**Administrative Conditional Use Review** - To allow a minor communication utility in a single family zone. Section 23.57.010.C, Seattle Municipal Code

**SEPA - Environmental Determination** - *Chapter 25.05*, Seattle Municipal Code (“SMC”)

**SEPA DETERMINATION:**      ☐ EXEMPT   ☒ DNS   ☐ EIS  
   ☒ DNS with conditions  
   ☐ DNS involving non-exempt grading or demolition  
   involving another agency with jurisdiction

\*\*Early Notice DNS published March 20, 2003

**BACKGROUND DATA**

**Site Location and Description**

The subject property is a corner lot located at the intersection of East Ward Street and Turner Way East in the Capitol Hill neighborhood. Turner Way East is a 320 foot diagonal right-of-way connecting 23<sup>rd</sup> Avenue East to 24<sup>th</sup> Avenue East. The right-of-way serves as a main arterial connecting the Rainier Valley to the University District. The subject site is triangular in shape and encompasses a land area of approximately 4,290 square feet in a Single Family 5000 (SF 5000) zone. The site is currently developed with commercial (administrative offices and minor communication utility) use within a one-story brick building with daylight basement. The building was constructed in 1910 and is nonconforming to current land use single family

development standards. And as such, any development activity shall not increase the extent of the existing nonconformity. The site is fully developed with the existing building occupying almost the entire development site. The subject lot slopes down moderately from west to east. An unimproved 12 feet wide alley borders the subject property along its north blunted tip. East Ward Street and Turner Way East Street frontages are fully improved with concrete sidewalks, curbs, and gutters

The subject site is located within an expansive SF 5000 zone on the eastside of Capitol Hill overlooking the Arboretum. Capitol Hill slopes dramatically down and away from the development site to the north and east. Directly across the right-of-way to the west along 23<sup>rd</sup> Avenue East single family residential structures are approximately 8 feet above grade elevation of the subject site. A number of mature trees in the area provide a lush canopy to enhance the aesthetic value of this neighborhood. Development in the immediate vicinity is predominantly single family and multifamily residential uses. Zoning in the surrounding area includes Single Family 7200 (SF 7200) to the east and small pockets of Neighborhood Commercial 1 with 30 and 40 height limits (NC1-30 & NC1-40). Turner Way East is an active arterial that serves Metro Bus Routes #43 & #48. The nearest northbound bus stop is one block south of the development site on 23<sup>rd</sup> Avenue East.

### Proposal Description

A master use permit application proposes to establish use for installation of a minor communication utility (T-Mobile) on the roof of an existing commercial building. Project includes two rooftop antennas (2-Sector) to be encased in a faux brick chimney shroud resembling the three existing chimneys. The equipment cabinet will be located in a basement storage room of the building.

The highest portion of the proposed minor utility and screening is proposed to be 37 feet above existing grade. The height limit for the SF 5000 zone is thirty (30) feet above grade and may extend to 35 feet with a pitched roof that has a minimum slope of 3:12. Approval through an Administrative Conditional Use Permit is required for locating a minor communication utility in a residential zone and for constructing minor communication utilities that exceed the height limit of the zone.

### Public Comment

The public comment period for this project began on March 27, 2003 and was extended to April 9, 2003 at the request of the public. A total of four public comments letters were received. The respondents expressed some concerns covering a range of issues, which included changing the neighborhood character with the installation of a second minor communication utility in a SF 5000 zone. Additionally, view blockage upon adjacent lots with the proposed new rooftop antennas was mentioned, as well as impacts related traffic congestion, and on-street parking. Also, neighbors voiced their concern with the detrimental economic impact of the proposed use. A couple of letters mentioned the encroachment of the existing structure over existing property lines.

## **ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS**

Section 23.57.010.C of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Single Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations of this Section enumerated below.

- 1. The proposal shall not be significantly detrimental to the residential character of surrounding residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The subject site is located in a Single Family 5000 zone and will be sited on an existing commercial building. The existing building is nonconforming to a number of single family development standards, one of which is encroachment into required yards. After careful consideration the provider has chosen to locate the panel antennas on the rooftop near the building's northeast edge outside the developments site's required yards. As noted previously, the topography in the immediate area minimizes proposed visual bulk of the rooftop antenna feature. The total height of the antenna is approximately 37 feet above existing grade. The proposed location on the existing building's rooftop is the least intrusive location consistent with effectively providing service.

To minimize detrimental impacts and the degree of intrusiveness on the rooftop, the applicant chose to encase the antennas within a faux brick chimney designed to facilitate full integration of the existing and new use. The existing rooftop chimneys are lower in height and used as the template for the faux chimney. The mechanical equipment cabinet will be located within the basement and will not have an impact upon the tenants and the surrounding residential area. Given the existing conditions and additional faux like screening of the antennas on the rooftop designed to blend in with the exterior of the building chimney, and the location of the associated equipment cabinet in the storage space in the building, the proposed minor communications utility would be minimally obtrusive and not detrimental to the residential streetscape character along Turner Way East and 23<sup>rd</sup> Street.

The views from neighboring residential structures would not be altered by the presence of the facility. The applicant has provided photographically simulated evidence suggesting that the visual intrusion would be minor.

The proposed minor communication utility is not likely to result in substantially detrimental compatibility impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely know the facility exists, in terms of its land use, once it is constructed, and cell phone coverage in the area will be improved which will likely be beneficial to many residents and visitors to the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and any noise associated with the equipment cabinet will be shielded by the walls of the room in which it is to be located within the commercial building. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

- 2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible in the form of a faux brick exterior shell. It is designed to resemble the existing brick chimneys in

order to screen and camouflage the antenna location. The proposed faux form like screening of the antennas and related equipment would blend with the color of the building and is a condition of approval of this permit. The associated cabinet equipment will be located in the existing storage space inside the building and will not be visible from the outside.

*23.57.016 Visual Impacts and Design Standards:*

- A. *Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.*

The applicant's plans depict a thoughtful integration of the telecommunication facility into the architectural design of the existing building. By proposing a screening technique that employs a faux brick chimney surface that resembles the three (3) existing brick chimneys the applicant has succeeded designing a cohesive relationship. Architecturally, this screening technique effectively harmonizes with the building's brick façade treatment. The proposed faux brick chimney will be taller than the three other chimneys but is designed to provide a visual coherence. The screened antennas will be sympathetic in materials and design to match the existing chimneys. Therefore, the proposal complies with this criterion (See applicant's declarations and submitted plans).

- B. *Not Applicable.*
- C. *If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures shall be no taller than such structures.*

The applicant's plans depict screening that extends to the top of the proposed facilities. Integration of the screening facility into the architectural design of the existing building is proposed by mimicking three existing brick antennas and by using screen colors that generally blend with the color of the existing building.

- D. *Not Applicable.*
- E. *Not Applicable.*
- F. *New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.*

The existing rooftop antennas relied on outdated design methods that does not functionally integrate well with the existing brick building. At the time

that the existing antennas where installed alternative screening technologies was limited. The existing antennas are light gray in color and are visible from the Turner Way East and 23<sup>rd</sup> Avenue street frontages. The applicant chose to capitalize on the existence of three brick chimneys to inspire their design. The proposed view obscuring design better integrates with the existing brick and masonry building. The faux brick chimney is more compatible with the building and therefore, provides greater coherence to other parts of the building. Thus, more fully complying with this criterion.

G. *Not Applicable.*

H. *Not Applicable.*

I. *Not Applicable.*

J. *Not Applicable.*

K. *Not Applicable.*

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

- a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
- b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The applicant's RF engineer has provided evidence (Letter from Toan Nguyen, (RF) Engineer, and dated August 26, 2003) that the proposed antenna height, 13 feet above the top of roof, is the minimum height necessary to ensure the effective functioning of the utility in the most inconspicuous manner possible. Therefore, the proposal complies with this criterion.

The proposed antennas will be located on the rooftop of the existing building. The proposed minor communication facility extending approximately 13.75 above the roof line would be taller than the base height limit for single family zone. However, the additional height may be granted through an administrative conditional use permit.

Due to the operational characteristics of the facility proposed, a clear line of site from the antennas in the system throughout the intended coverage area is necessary to ensure the quality of the transmission of the digital system. The strict application of the height limit would preclude the applicant from providing wireless services for the intended coverage area, which includes north towards Husky stadium and northeast of the subject site. The site was chosen because its elevation and location are uniquely suited to serve the adjoining residential and commercial areas. No commercial properties were identified with sufficient elevation height to provide the coverage needed to meet the service objectives. The additional height above the

underlying zone height development standard is the minimum required to obtain sufficient coverage. The additional increase in bulk, view blockage and shadow impacts are not anticipated from the extra 13.75 feet extension of the proposed antennas.

The alternative would be to install antennas on other City Light utility poles along 23<sup>rd</sup> Avenue East, 24<sup>th</sup> Avenue East and adjacent to 2400 East Helen Street. A representative from Seattle City Light, Real Estate Services informed the applicant that the identified poles would be replaced and relocated in the near future onto Metro metal poles and therefore were not available for consideration. Additionally, other options were explored that included locating an institutional use to install the antennas, and erecting a monopole in the search ring area. No institutional use could be found in the area and the monopole would be more visually intrusive and was dropped as an option. According to the applicant, the literal interpretation and strict application of the Land Use Code would be that T-Mobile could not meet its federal mandate of its FCC license to provide high speed wireless internet access throughout the Seattle metropolitan area. This proposal site at this elevation is a vital link in the planned network for the Seattle Metropolitan area. Given these alternatives, the height limit extension is a minimal impact. Thus, this criterion is satisfied.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this requirement does not apply to the subject proposal.

6. *If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009A, except for minor communication utilities located on a freestanding water tower or similar facility.*

The proposed minor communication utility will be the second utility at the development site. Therefore, this requirement does not apply to the subject proposal.

## **SUMMARY**

The proposed project is consistent with the administrative conditional use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

## **DECISION - ADMINISTRATIVE CONDITIONAL USE**

The Conditional Use application is **CONDITIONALLY APPROVED**.

### **SEPA ANALYSIS**

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by Paul Wozniak dated February 27, 2003. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

### **Short-Term Impacts**

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

### **Construction Noise**

The limitations of the Noise Ordinance (construction noise) are considered inadequate to mitigate the potential noise impacts associated with construction activities. The SEPA Policies at SMC 25.05.675 B allow the Director to limit the hours of construction to mitigate adverse noise impacts. Pursuant to this policy and because of the proximity of neighboring residential uses, the applicant will be required to limit excavation, foundation, and external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. It is also

recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit.

The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

#### Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

#### Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a “Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility” and an accompanying “Affidavit of Qualification and Certification” for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, pose no threat to public health.

#### Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

#### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.



- [X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

### **ADMINISTRATIVE CONDITIONAL USE CONDITIONS**

1. The owner(s) and/or responsible party(s) shall provide proposed faux brick like screening of the antennas and related equipment to blend with the color of the building. This shall be to the satisfaction of the Land Use Planner.

#### **Land Use Code Requirement (Non - Appealable) Prior to Issuance of Master Use Permit**

2. The owner(s) and/or responsible party(s) shall provide access and signage in accord with Section 23.57.010E4 which restrict access to minor communications utilities to authorized personnel. This shall be to the satisfaction of the Land Use Planner.

### **SEPA CONDITIONS**

During Construction: The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: September 8, 2003  
Bradley Wilburn, Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Services